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January 30, 2002

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Re: Section 1377 Review -- Comments of New World Network, Ltd.

Dear Ms. Blue:

New World Network, Ltd.. (“New World Network”) respectfully submits these comments in response to the Request for Comments Concerning Compliance with Telecommunications Trade Agreements issued by the Office of the United States Trade Representative (“USTR”) pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988.¹ Specifically, New World Network addresses the compliance of Mexico under the *World Trade Organization Basic Telecommunications Agreement and Reference Paper*.

New World Network applauds the continuing efforts of the USTR to promote compliance by the U.S.’ trade partners of their commitments under the *Basic Telecommunications Agreement* and other telecommunications trade agreements. New World Network takes this opportunity to advise the USTR of some of the issues it confronts as a telecommunications infrastructure developer in Latin America and the Caribbean. New World Network requests that the USTR

¹ 66 FED. REG. 248 (Dec. 27, 2001).

examine the actions of Mexico and take appropriate action to encourage this country to implement fully its WTO commitments.

I. INTRODUCTION TO NEW WORLD NETWORK

New World Network is an international privately-owned telecommunications developer. In December 2001, New World Network completed the installation of the Americas Region Caribbean Ring System (“ARCOS-1”). ARCOS-1 is a high capacity telecommunications submarine cable system, connecting the United States with Mexico, Guatemala, Belize, Honduras, Nicaragua, Costa Rica, Panama, Colombia, Venezuela, Curacao, Puerto Rico, the Dominican Republic, Turks & Caicos and The Bahamas.

A consortium of 24 companies owns ARCOS-1, of which New World Network is the majority stake holder with approximately an 86% ownership interest in ARCOS-1. Twenty-three other carrier owners hold the remaining minority participation.

New World Network, directly and through its subsidiaries, is actively marketing and selling telecommunications capacity on ARCOS-1 (on an Indefeasible Right of Use basis), to telecommunications carriers and large telecommunications users in the United States and throughout the region.

II. MEXICO HAS FAILED TO GUARANTEE NON-DISCRIMINATORY TREATMENT TO NEW ENTRANTS

New World Network believes that the Mexican government has failed to meet its WTO commitments to the detriment of competition and competitive providers.

While the situation of the Mexican long distance telecommunications market has recently improved, largely due to the December 2000 agreement between Teléfonos de México, S.A. de C.V. (“Telmex”) and its largest competitors, Avantel, S.A. (“Avantel”) and Alestra, S. de R. L. de C.V. (“Alestra”), there are still numerous areas where the Mexican telecommunications market lacks transparency and imposes onerous conditions to new entrants.

In particular, Mexico has taken actions that hinder the ability of competitive providers to enter into the Mexican international and domestic long distance market, including the imposition of extremely burdensome, lengthy, and expensive licensing processes.

A. The Mexican Licensing Process is a Camouflaged Trade Barrier.

The Mexican licensing framework is one of the most complicated and expensive processes in the world. In addition to imposing significant foreign ownership restrictions -- which in effect restrict the ability of U.S. and foreign telecommunications providers to enter the Mexican market -- and requiring substantial investment commitments for the initial years of operation, Mexican law requires new entrants to interconnect with their own facilities at least three Mexican states within a specified period of time. These significant investment and buildout requirements, have forced numerous potential entrants to reconsider their market entry strategies altogether, thus acting as a camouflaged trade barrier to enter the Mexican market to the benefit of Telmex as the incumbent telecommunications provider.

Moreover, once a carrier takes the conscious decision to obtain a concession to provide long distance services in Mexico, thereby investing a significant amount of time and resources in the process, the Mexican regulatory entities (the Secretariat of Communications and Transportation ("SCT") and the Federal Telecommunications Commission ("COFETEL")), require new entrants to include as part of their proposed investment plan, payment of significant fees to Telmex for the costs incurred by Telmex to upgrade its network to provide interconnection to new competitive carriers. These so called "special projects fees" amount to millions of dollars of additional costs that new entrants are forced to pay in order to obtain interconnection with Telmex's ubiquitous network in the country.

B. Competitors' Problems After Obtaining a Concession.

Competitors' struggles in the Mexican market are far from over after obtaining a concession from the SCT. Competitive carriers have continuously complained of facing tortuous

and uphill battles with Telmex to obtain interconnection and access to other essential facilities. Telmex's monopolistic actions, together with SCT and COFETEL's lack of effective enforcement of Mexico's Dominant Carrier Regulations and other legislation aimed at leveling the playing field between the incumbent and new competitors, have made it difficult for new entrants to obtain a significant market share or to recover the significant amounts of investment required by Mexican law.

As a result of the Mexican government's lack of effective enforcement, the ability of new entrants to compete effectively in the Mexican market has been significantly hindered, thus further discouraging current and potential investors from entering the Mexican market.

For these reasons, New World Network urges the USTR to take appropriate actions to ensure that Mexico lives up to its WTO commitments and creates the conditions necessary for a truly competitive telecommunications market.

III. CONCLUSION

New World Network would be pleased to provide additional information regarding the issues raised in these comments at the USTR's request. Please do not hesitate to contact us with any questions.

Respectfully submitted,

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